

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Case No. 3:18-cv-95**

RAYMOND BENITEZ,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

**THE CHARLOTTE MECKLENBURG
HOSPITAL AUTHORITY, d/b/a
CAROLINAS HEALTHCARE SYSTEM,
ATRIUM HEALTH**

Defendant.

**DEFENDANT'S
MOTION FOR JUDGMENT ON THE
PLEADINGS
Fed. R. Civ. P. 12(c)**

NOW COMES the Defendant in the above-captioned matter, pursuant to Fed.R.Civ.P. Rule 12(c), and moves for Judgment on the Pleadings dismissing the Complaint. The grounds for this Motion are that: (1) the Plaintiff's claim for monetary damages are barred by the Local Government Antitrust Act of 1984 ("LGAA"), 15 U.S.C. § 34 *et seq.*, and the "indirect purchaser" rule of *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977); and, (2) the Plaintiff's claim for injunctive relief is barred under concepts of antitrust standing and under the doctrine of duplicative litigation as the relief he seeks is no different than that sought by the United States and North Carolina in *United States v. Charlotte-Mecklenburg Hospital Authority*, No. 3:16cv311 (June 19, 2016) (ECF No. 1) ("Gov't Compl.").¹ In further support of this Motion the Defendant relies upon the pleadings in this matter and adopts by reference and incorporates into this

¹ In the alternative, the Defendant requests that this Court stay the Plaintiff's claim for injunctive relief under the duplicative litigation doctrine.

Motion the Second Defense to Claims for Relief Seeking the Recovery of Damages, Interest on Damages, Costs, Attorneys' Fees and Trebling, and its Third Defense to Claims for Relief Seeking the Recovery of Damages, Interest on Damages, Costs, Attorneys' Fees and Trebling.

WHEREFORE, the Defendant prays that this Court:

1. Grant Judgment on the Pleadings in favor of the Defendant and dismiss the Plaintiff's claims for monetary damages;
2. Grant Judgment on the Pleadings in favor of the Defendant and dismiss the Plaintiff's claims for injunctive relief;
3. In the alternative, stay the Plaintiff's claims for injunctive relief pending resolution of *United States v. Charlotte-Mecklenburg Hospital Authority*, No. 3:16cv311.

This 30th day of April 2018.

/s/ James P. Cooney

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* Pro Hac Vice Applications Forthcoming

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2018, the foregoing was served via the Court's CM/ECF system to all parties registered to receive such notice including:

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